

**Introduced by Senator Lieu**

February 24, 2012

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An act to add Section 1371.6 to the Health and Safety Code, and to add Section 10133.68 to the Insurance Code, relating to health care coverage.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1373, as introduced, Lieu. Health care coverage: out-of-network coverage.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law requires plans to reimburse noncontracting providers for emergency services and care rendered to enrollees of the plan, as specified. Existing law requires plans to, upon request, provide a list of specified contracting providers within the enrollee's or prospective enrollee's general geographic area. Existing law provides for the regulation of health insurers by the Department of Insurance and authorizes health insurers to contract for alternative rates of payment with providers. Existing law requires insurers to provide group policyholders with a current roster of institutional and professional providers under contract to provide services at alternative rates under their group policy and to make that list available for inspection during regular business hours at the insurer's principal office.

Under this bill, when an enrollee or insured seeks care from a noncontracting provider, the provider would be required to provide a specified written notice to the enrollee or insured informing the enrollee or insured that the provider is not in the enrollee's or insured's plan or provider network, as specified. The bill would require a plan or insurer

to reimburse a noncontracting provider for covered services rendered by the provider to an enrollee of the plan or insured of the insurer using the rate and method of payment applied to contracting providers, unless the plan or insurer determines that the enrollee or insured reasonably should have known that the provider was a noncontracting provider, except as specified. The bill would also prohibit a health facility or a provider group from holding itself out as being within a plan network unless all of the individual providers providing services at the facility or with the provider group are within the plan network.

Because a violation of these requirements with respect to a health care service plan would be a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1371.6 is added to the Health and Safety
- 2 Code, to read:
- 3 1371.6. (a) When an enrollee seeks health care services from
- 4 a noncontracting provider, the provider shall, prior to providing
- 5 care to the enrollee, provide a written notice to the enrollee
- 6 informing him or her that the provider is not in the enrollee's plan
- 7 network and that services rendered by that provider may not be
- 8 covered by the enrollee's plan contract. The notice shall also
- 9 include a written estimate of the cost for the enrollee to obtain
- 10 those services from the provider and direct the enrollee to contact
- 11 his or her plan for information regarding contracting providers
- 12 with similar clinical expertise who offer the same services.
- 13 (b) A health facility or provider group shall not hold itself out
- 14 as being within a plan's network unless all of the individual
- 15 providers providing services at the facility or with the provider
- 16 group are within the plan network.
- 17 (c) A plan shall pay claims for covered services rendered by a
- 18 noncontracting provider to an enrollee of the plan using the same

1 rate and method of payment used by the plan for contracting  
2 providers rendering similar services on a noncapitated basis and  
3 who are practicing in the same or similar geographic region as the  
4 noncontracting provider unless the plan determines that the enrollee  
5 reasonably should have known that the provider was a  
6 noncontracting provider. This subdivision shall not apply where  
7 the plan is otherwise required, by this chapter or by the enrollee's  
8 plan contract, to provide coverage for the service rendered by the  
9 noncontracting provider. This subdivision shall apply only to health  
10 care service plan contracts issued, amended, or renewed on or after  
11 January 1, 2013.

12 (d) This section shall not apply when an enrollee seeks  
13 emergency services and care required to be reimbursed by a plan  
14 pursuant to Section 1371.4.

15 (e) For purposes of this section, the following definitions shall  
16 apply:

17 (1) "Noncontracting provider" means a provider who is not  
18 employed by, under contract with, or otherwise affiliated with a  
19 health care service plan to provide services to the enrollee.

20 (2) "Provider group" means a medical group, independent  
21 practice association, or any other similar organization.

22 SEC. 2. Section 10133.68 is added to the Insurance Code, to  
23 read:

24 10133.68. (a) When an insured seeks health care services from  
25 a noncontracting provider, the provider shall, prior to providing  
26 care to the insured, provide a written notice to the insured  
27 informing him or her that the provider is not in the insured's  
28 provider network and that services rendered by that provider may  
29 not be covered by the insured's policy. The notice shall also include  
30 a written estimate of the cost for the insured to obtain those services  
31 from the provider and direct the insured to contact his or her insurer  
32 for information regarding contracting providers with similar clinical  
33 expertise who offer the same services.

34 (b) A health facility or provider group shall not hold itself out  
35 as being within an insurer's provider network unless all of the  
36 individual providers providing services at the facility or with the  
37 provider group are within the provider network.

38 (c) An insurer that contracts with institutional and professional  
39 providers for alternative rates pursuant to Section 10133 shall pay  
40 claims for covered services rendered by a noncontracting provider

1 to an insured of the insurer, using the same rate and method of  
2 payment used by the insurer for contracting providers rendering  
3 similar services who are practicing in the same or similar  
4 geographic region as the noncontracting provider, unless the insurer  
5 determines that the insured reasonably should have known that  
6 the provider was a noncontracting provider. This subdivision shall  
7 not apply where the insurer is otherwise required, by this part or  
8 by the insured's policy, to provide coverage for the service rendered  
9 by the noncontracting provider. This subdivision shall apply only  
10 to health insurance policies issued, amended, or renewed on or  
11 after January 1, 2013.

12 (d) This section shall not apply when an insured seeks  
13 emergency services and care or when an insured is covered by an  
14 insurer that does not contract for alternative rates of payment  
15 pursuant to Section 10133.

16 (e) For purposes of this section, the following definitions shall  
17 apply:

18 (1) "Noncontracting provider" means a provider who has not  
19 entered into a contract with an insurer for alternative rates of  
20 payment pursuant to Section 10133.

21 (2) "Provider group" means a medical group, independent  
22 practice association, or any other similar organization.

23 SEC. 3. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.